

**REMARKS/ARGUMENTS**

Claims 19-22 are pending in the present application. Claims 19-22 are amended. Claims 19-22 are independent.

**Rejection Under 35 U.S.C. § 103**

Claims 19-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U. S. Patent No. 5,867,815 to Kondo et al. (hereinafter “Kondo”) in view of Applicant’s admitted prior art (hereinafter “AAPA”). This rejection is respectfully traversed.

It is respectfully submitted that the Examiner has not presented a *prima facie* case of obviousness with respect to claims 19-22. As set forth in Section 2143.03 of the M.P.E.P., “[t]o establish *prima facie* obviousness of a claimed invention, all the claims limitations must be taught or suggested by the prior art.”

Independent claims 19-22 each recites a speed decoding apparatus or method, which evaluates a noise level of speech by using a decoded gain, and changing a noise level of a time series vector from an excitation code book based on the evaluated noise level. Applicant respectfully submits that this feature is neither taught nor suggested by Kondo and AAPA, taken separately or in combination with one another.

In the Amendment filed August 25, 2003, Applicant argued that Kondo does not disclose a noise level evaluator in a decoding apparatus. Instead,

Kondo discloses a noise/nonvoice band discriminator 61 (apparently interpreted by the Examiner as a noise level evaluator) in an encoding apparatus of a speech transmission/reception system. Applicant further argued that AAPA merely discloses a CELP decoder, which does not perform any noise level evaluation. Thus, Applicant asserted that the combination of Kondo and AAPA fails to teach or suggest a speech decoding apparatus or method that “evaluat[es] a noise level of the speech ... by using the gain decoded,” as required by the independent claims.

In the outstanding Office Action, the Examiner fails to respond to this argument. Applicant, thus, reasserts this argument and refers the Examiner to Figure 6 and column 5: lines 47-56 in Kondo. This portion of Kondo specifically discloses that the decoding apparatus merely decodes a series of received codes and sends the decoded data to a synthesizing filter in order to reproduce speech.

In the Amendment of August 25, 2003, Applicant further argued that the noise/nonvoice band discriminator 61 of Kondo does not rely upon a decoded gain. Thus, neither Kondo nor AAPA teaches or suggests evaluating a noise level by using a decoded gain, as required by each independent claim. Again, the outstanding Office Action fails to adequately address this argument.

As to this argument, the Examiner’s attention is directed to Figure 5 of Kondo. As shown, Kondo’s noise/nonvoice band discriminator 61 only receives an error signal (an “error power”) as input. Thus, any determination made by

the noise/nonvoice band discriminator 61 as to whether a signal is noise or a nonvoice band, is performed without using any type of gain.

In the previous Amendment, Applicant also argued that neither Kondo nor AAPA changes “a noise level of the time series vectors,” as required by each of claims 19-22. In response to this argument, the Examiner seemingly asserts that the level ratio control unit 65 of Kondo can be interpreted as changing a noise level of time series vectors (see Section 6 of page 3 in the Office Action). Applicant respectfully disagrees.

In column 5: lines 13-21, Kondo discloses that each vector-quantized signal is level-adjusted by the level controller 64. In particular, Kondo discloses that each vector is output at an appropriate tone level -- either a speech level or background noise level (column 5: lines 25-40; Figure 5). In particular, the value of the normalization coefficient indicates the particular level (either speech level or noise level) for the particular vector (column 5: lines 38-40).

Conversely, in the present invention, a noise level controller (i.e., sampler 31) is operable to change the noise level for a vector, as described in the specification with respect to Embodiment 4. In other words, when a noise level evaluator 26 determines that a noise level is high, the present invention is not limited to outputting the corresponding time series vector at one fixed “noise level” (as taught by Kondo), but rather may change the level at which the particular time series vector is output by use of the sampler 31.

Since Kondo only discloses one fixed value for a noise level, Kondo fails to disclose changing a noise level of a time series vector, as recited in independent claims 19-22.

### **Summary of Arguments**

In summary, Applicant has pointed out three features of the present invention that Kondo and AAPA fail to disclose or suggest:

- (1) a decoding apparatus or method that evaluates noise level;
- (2) evaluating noise level based on a decoded gain; and
- (3) changing a noise level of a time series vector based on the evaluated noise level.

Since the prior art fails to either disclose or suggest these features, the Examiner has failed to establish a *prima facie* case of obviousness, as stated in Section 2143.03.

### **Conclusion**

In view of the above remarks, Applicant respectfully submits that all of the stated grounds of rejection have been properly traversed. Therefore, Applicant earnestly requests the Examiner to issue a Notice of Allowance in connection with the present application.

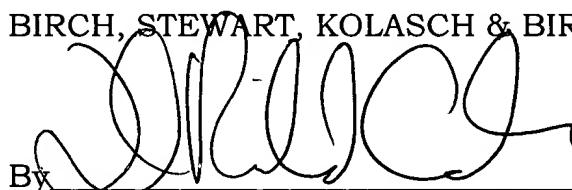
Should the Examiner believe that any outstanding matters remain in the present application, the Examiner is respectfully requested to contact Jason W. Rhodes (Reg. No. 47,305) at the telephone number of the undersigned to conduct an interview in order to expedite prosecution of the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By

  
D. Richard Anderson, #40,439

*JR*  
DRA/JWR

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000